

ADVISORY OPINION NO. 2001-03

COPY

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WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A County Board of Education asks whether it may enter into an agreement by which a hospital, which employs a Board Member's spouse, will provide free training for county students.

FACTS RELIED UPON BY THE COMMISSION

Because the spouse of a Board Member is an employee of a local hospital, the Board does not contract for paid services with the hospital. In this instance, however, the Board wishes to enter into agreements with the hospital and two of its health care subsidiaries to provide on the job health care training and clinical experience, without charge or compensation, for students in the county's public school career center.

CODE PROVISIONS RELIED UPON BY COMMISSION

WV Code 6B-2-5(d)(1) *Interests in public contracts*, provides in part that ... no elected or appointed official or employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in ... a contract which such official or employee may have direct authority to enter into, or over which he or she may have control ...

WV Code 61-10-15 states in part that ... It shall be unlawful for any member ... of any ... county or district board ... to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract ... [over] which as such member he may have any voice, influence or control ...

ADVISORY OPINION

Both the Ethics Act and WV Code 61-10-15, a criminal misdemeanor statute, prohibit public servants from having a financial interest in a public contract, purchase or sale over which their public position gives them control. However, these provisions do not apply to the "agreements" between the Board and the hospital and its subsidiaries because the agreements provide no financial benefit to the hospital by which the Board member's spouse is employed. Entering into the agreements would not be a violation of either the Ethics Act or WV Code 61-10-15. NOTE: This opinion is confined to the facts of this specific case and should not be relied upon by others.


Chairman